

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CASE NO. 3:18-CR-311-MOC-DCK**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**DAVID MICHAEL NIGH,**

**Defendant.**

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**ORDER**

**THIS MATTER IS BEFORE THE COURT** on Defendant's "Second Motion For A Detention Hearing And For Release Pending Trial Pursuant To 18 U.S.C. § 3142" (Document No. 502) filed November 2, 2023. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion and the record, the undersigned will deny the motion.

Defendant was indicted on September 19, 2018 on various charges: for conspiracy to commit wire and mail fraud (count 1, in violation of 18 U.S.C. § 1349); for wire fraud (counts 2-10, in violation of 18 U.S.C. § 1343); for conspiracy to commit money laundering (count 11, in violation of 18 U.S.C. § 1956(h)); and for international money laundering (counts 12-20, in violation of 18 U.S.C. § 1956(a)(2)(A)). See (Document No. 3). Defendant made his initial appearance in this Court on December 16, 2022, after being extradited from Costa Rica. See (Document No. 502, p. 1). Defendant was ordered detained on December 21, 2022. See (Document No. 430). On May 1, 2023, the undersigned denied Defendant's first motion for pretrial release. See (Document No. 488).

By the instant motion, Defendant indicates that he “was housed at the Mecklenburg County Detention Center – Main from his arrival in the United States in December of 2022 until approximately early/mid-August 2023, at which time the Mecklenburg County Sheriff’s Department terminated their contract to hold federal inmates.” (Document No. 502, p. 3). Defendant indicates that he has since been transferred to the Robert A. Deyton Detention Facility in Lovejoy, Georgia. Id.

The basis for Defendant’s motion for release from custody seems to be that his “transfer to facilities over 5 hours away from his attorney and his inability to possess [legal] documents...has substantially impaired his ability to prepare and assist his attorney.” Id. at p. 4. The Government, however, in the “United States’ Opposition To Defendant Nigh’s Second Motion For A Detention Hearing And For Release Pending Trial Pursuant To 18 U.S.C. § 3142” (Document No. 504), filed November 20, 2023, adequately demonstrates that “there is no condition or combination of conditions that will reasonably assure the appearance of Defendant as required. (Document No. 504, p. 1).

Pursuant to 18 U.S.C. § 3142(f)(2), a detention hearing may be reopened

if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community.

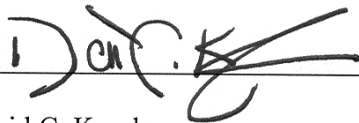
Respectfully, there has been no material change in circumstances that relates to whether conditions of release exist that would reasonably assure Defendant’s appearance and the safety of others. As the Government states, “[t]he Court previously denied Defendant’s motion for release...finding that no conditions of release would reasonably assure his appearance as required.” (Document No. 504, p. 3). “Those circumstances have not changed, and the Defendant continues to pose a serious

flight risk if released.” Id. Defendant’s location of pretrial detention “is not relevant under 18 U.S.C. § 3142.” Id. at p. 4. Defendant still faces significant charges, and he carried out the relevant conduct in Costa Rica, where he resided for over a decade in total. Id. at pp. 2-3. Thus, the undersigned will respectfully deny Defendant’s motion for release.

**IT IS, THEREFORE, ORDERED** that Defendant’s “Second Motion For A Detention Hearing And For Release Pending Trial Pursuant To 18 U.S.C. § 3142” (Document No. 502) is **DENIED.**

**SO ORDERED.**

Signed: November 20, 2023

  
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David C. Keesler  
United States Magistrate Judge

